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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,888	08/18/2006	Hui Li	1454.1727	2449
21171	7590	04/10/2009	EXAMINER	
STAAS & HALSEY LLP			MAPA, MICHAEL Y	
SUITE 700				
1201 NEW YORK AVENUE, N.W.			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20005			2617	
			MAIL DATE	DELIVERY MODE
			04/10/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## DETAILED ACTION

### ***Response to Arguments***

Applicant's arguments filed 04/01/09 have been fully considered but they are not persuasive.

The applicant argues features wherein a method for communication in a radio communication system comprising mobile stations and network-side devices, wherein the network side devices have network side antennas distributed over a plurality of positions within a radio cell and wherein a request message that requests a mobile station to transmit a signaling message is transmitted via at least one network-side antenna and the request message being used exclusively for requesting the signaling message; receiving the signaling message from the mobile station via at least one of the network-side antennas and after receiving the signaling message, transmitting a user data message to the mobile station via a plurality of transmitting network-side antennas, the transmitting network-side antennas being selected as only the network-side antennas that received the signaling message from the mobile station and which reads upon Rogard in view of Nakanishi as follows:

Rogard discloses “a method for radio communication radio communication system comprising mobile stations and network-side devices, the network-side devices comprising network-side antennas distributed over a plurality of positions within a radio cell” (Fig. 1 of Rogard). Rogard discloses “the method comprising: transmitting a

request message that requests a mobile station to transmit a signaling message” (Column 24, Lines 14-16 of Rogard, wherein Rogard discloses the base station sending a paging message and the user responding with a random access request). Rogard discloses “the request message being transmitted via at least one network-side antenna” (Column 4, Lines 63-65 of Rogard, wherein Rogard discloses using a downlink transmission unit coupled to the antenna elements to transmit downlink data, therefore via at least one network-side antenna). Rogard discloses “the request message being transmitted to the mobile station and being used exclusively for requesting the signaling message” (Column 24, Lines 14-16 of Rogard). Rogard discloses “receiving the signaling message from the mobile station” (Column 24, Lines 15-16, wherein the mobile station responds to the paging message with a random access request). Rogard discloses “the signaling message being received by at least one of the network-side antennas” (Column 4, Lines 65-68 of Rogard, wherein Rogard discloses an uplink reception unit coupled to the antenna elements to receive an uplink signal from the remote terminal). Rogard discloses “and after receiving the signaling message, transmitting a user data message to the mobile station via a plurality of transmitting network-side antennas” (Column 24, Lines 15-18 of Rogard, wherein Rogard discloses receiving the random access request and responding with an access assignment message). Rogard discloses “the transmitting network-side antennas being selected” (Column 4, Lines 59-61 of Rogard, wherein Rogard discloses the downlink strategy to be determined based on the signals received at the antenna elements). Rogard discloses using one or more of the antennas to transmit on the downlink using the

downlink antenna processing strategy based on the uplink signal received (Column 7, Lines 28 – 44 & Column 5, Lines 2 – 3 of Rogard).

Rogard fails to explicitly recite “the transmitting network-side antennas being selected as only the network-side antennas that received the signaling message from the mobile station.” However, Nakanishi discloses “the transmitting network-side antennas being selected as only the network-side antennas that received the signaling message from the mobile station” (Paragraphs [0023] – [0026] of Nakanishi, wherein Nakanishi discloses that an antenna having a better receiving quality has a good transmitting quality as well, therefore the receiving network-side antennas is selected as the transmitting network-side antennas). It would have been obvious to one of ordinary skill in the art to modify the invention of Rogard to incorporate the teachings of Nakanishi for the purpose of creating and maintaining good transmission quality (Paragraph [0015] & [0023] of Nakanishi).

Regarding the applicants arguments that Nakanishi fails to make up for the deficiency of Rogard of “the transmitting network-side antennas being selected as only the network-side antennas that received the signaling message from the mobile station”, the examiner respectfully disagrees. The applicant claims “receiving the signaling message by at least one of the network-side antennas and transmitting a user data message via a plurality of transmitting network-side antennas selected as only the network-side antennas that received the signaling message.” As can be seen in the arguments above, Rogard in view of Nakanishi discloses “receiving the signaling message by at least one of the network-side antennas and transmitting a user data

message via a plurality of transmitting network-side antennas selected as only the network-side antennas that received the signaling message.” Therefore, the argued limitations read upon the cited references or are written broad such that it reads upon the cited references.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Mapa whose telephone number is (571)270-5540. The examiner can normally be reached on MONDAY TO THURSDAY 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571)272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Michael Mapa/  
Examiner, Art Unit 2617